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**IN THE MATTER OF** an application submitted by Caton Park Rehabilitation and Nursing Center, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Brooklyn, Community District 14.

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This application for an amendment of the Zoning Resolution of the City of New York concerning modification to Appendix F (Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas) was filed by Caton Park Nursing and Rehabilitation Center (the applicant) on August 17, 2018. It would establish a Mandatory Inclusionary Housing (MIH) area on portions of two blocks (Block 5074, Lot 4 and 14). This application, in conjunction with the application for the related action (C 180393 ZMK), would facilitate an enlargement of an existing nursing home in the Flatbush neighborhood of Community District 14, Brooklyn.

#### **RELATED ACTION**

In addition to the zoning text amendment (N 180394 ZRK) that is the subject of this report, the proposed project also requires action by the City Planning Commission on the following application, which is being considered concurrently with this application:

**C 180393 ZMK**      Zoning map amendment to change an R3X zoning district to an R6A zoning district

#### **BACKGROUND**

A full background discussion and description of this application appears in the report for the related zoning map amendment (C 180393 ZMK).

#### **ENVIRONMENTAL REVIEW**

This application (N 180394 ZRK), in conjunction with the application for the related action (C 180393 ZMK), was reviewed pursuant to the New York State Environmental Quality Review

Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 18DCP118K.

A summary of the environmental review appears in the report for the related zoning map amendment (C 180393 ZMK).

## **PUBLIC REVIEW**

This application (N 180394 ZRK) was duly referred to Brooklyn Community Board 14 and the Brooklyn Borough President on August 20, 2018 in accordance with the procedures for non-ULURP matters, along with the application for the related action (C 180393 ZMK), which was certified as complete by the Department of City Planning and duly referred in accordance with Title 62 of the rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

Brooklyn Community Board 14 held a public hearing on this application (N 180394 ZRK) on October 3, 2018, and on that date, by a vote of 26 in favor, one opposed, and with five abstentions, adopted a recommendation to approve the application.

### **Borough President Recommendation**

The Brooklyn Borough President held a public hearing on this application (N 180394 ZRK) on October 25, 2018, and on November 15, 2018, issued a recommendation of approval with conditions. A summary of the Borough President's recommendation and conditions appears in the report for the related zoning map amendment (C 180393 ZMK).

### **City Planning Commission Public Hearing**

On November 14, 2018 (Calendar No. 5), the Commission scheduled December 5, 2018 for a public hearing on this application (N 180394 ZRK), in conjunction with the application for the related action (C 180393 ZMK). The hearing was duly held on December 5, 2018 (Calendar No.

22). A summary of the public hearing appears in the report for the related zoning map amendment (C 180393 ZMK).

## **CONSIDERATION**

The Commission believes that this application for a zoning text amendment (N 180394 ZRK), in conjunction with the related application for a zoning map amendment (C 180393 ZMK), is appropriate.

A full consideration and analysis of issues, and the reasons for approving this application, appear in the related report for the zoning map amendment (C 180393 ZMK).

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

Matter within # # is defined in Section 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution

\* \* \*

## **APPENDIX F**

### **Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas**

\* \* \*

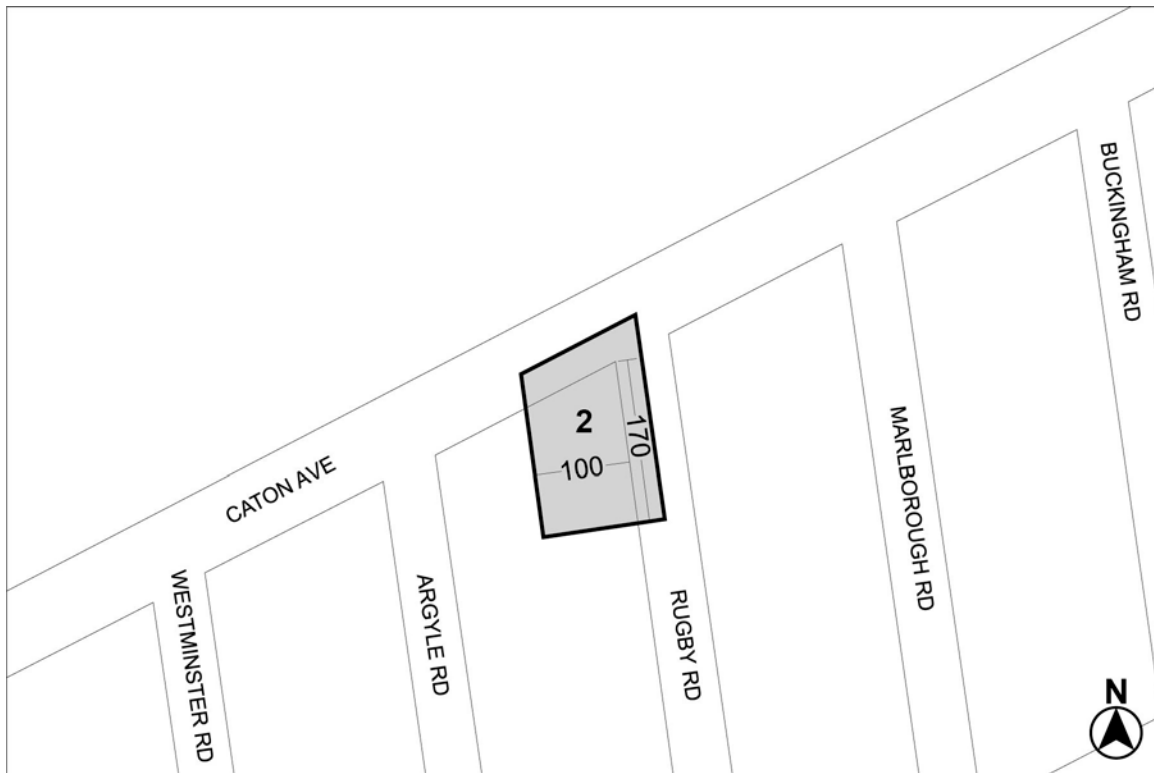
#### **Brooklyn**

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#### **Brooklyn Community District 14**

\* \* \*

Map 4 - [date of adoption]



Mandatory Inclusionary Housing Area (see Section 23-154(d)(3))

Area 2 — [date of adoption] — MIH Program Option 1 and Option 2

Portion of Community District 14, Brooklyn

\* \* \*

The above resolution (N 180394 ZRK), duly adopted by the City Planning Commission on January 9, 2019 (Calendar No. 14), is filed with the Office of the Speaker, City Council, and the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

**MARISA LAGO, *Chair***

**KENNETH J. KNUCKLES, Esq., *Vice-Chairman***

**ALLEN P. CAPPELLI, Esq., MICHELLE de la UZ,**

**JOSEPH I. DOUEK, RICHARD W. EADDY, HOPE KNIGHT, ANNA HAYES LEVIN,**

**ORLANDO MARIN, LARISA ORTIZ, RAJ RAMPERSHAD, *Commissioners***



Application #:	Project Name:
CEQR Number:	Borough(s): Community District Number(s):
Please use the above application number on all correspondence concerning this application	

## SUBMISSION INSTRUCTIONS

1. Complete this form and return to the Department of City Planning by one of the following options:
  - **EMAIL (recommended):** Send email to [CalendarOffice@planning.nyc.gov](mailto:CalendarOffice@planning.nyc.gov) and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ" ~~XXXXXXXXXX~~
  - **MAIL:** Calendar Information Office, City Planning Commission, 120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271
  - **FAX:** to (212) 720-3488 and note "Attention of the Calendar Office"
2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

*Docket Description:*

Applicant(s):		Applicant's Representative:	
Recommendation submitted by:			
Date of public hearing:		Location:	
Was a quorum present? YES <input type="checkbox"/> NO <input type="checkbox"/>		A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.	
Date of Vote:		Location:	
<b>RECOMMENDATION</b> <input type="checkbox"/> Approve <input type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove <input type="checkbox"/> Disapprove With Modifications/Conditions			
<b><u>Please attach any further explanation of the recommendation on additional sheets, as necessary.</u></b>			
<b>Voting</b> # In Favor:      # Against:      # Abstaining:      Total members appointed to the board:			
Name of CB/BB officer completing this form		Title	Date

## Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION

120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271

CalendarOffice@planning.nyc.gov



### INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representatives as indicated on the Notice of Certification.

### APPLICATION

CATON PARK NURSING HOME – 180393 ZMK, 180394 ZRK

An application submitted by the Caton Park Rehabilitation and Nursing Center pursuant to Sections 197-c and 201 of the New York City Charter for a zoning map amendment to change from R3X to R6A a property at the southeast corner of Caton Avenue and Rugby Road. The zoning map change would facilitate a 4,830 sq. ft. enlargement of a 119-bed nursing and rehabilitation center located at 1312 Caton Avenue in Brooklyn Community District 14 (CD 14). Additionally, the zoning text amendment to New York City Zoning Resolution (ZR) Appendix F: Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing (MIH) Areas for CD 14 would ensure that any future residential development is pursuant to MIH.

BROOKLYN COMMUNITY DISTRICT NO. 14

BOROUGH OF BROOKLYN

### RECOMMENDATION

☐ APPROVE  
☒ APPROVE WITH  
MODIFICATIONS/CONDITIONS

☐ DISAPPROVE  
☐ DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

November 15, 2018

DATE

**RECOMMENDATION FOR: CATON PARK NURSING HOME – 180393 ZMK, 180394 ZRK**

The Caton Park Rehabilitation and Nursing Center submitted applications pursuant to Sections 197-c and 201 of the New York City Charter for a zoning map amendment to change the majority of the property at the southeast corner of Caton Avenue and Rugby Road from a R3X zoning district to the R6A district that already regulates a smaller portion of the property. Such action would facilitate an enlargement of 4,830 square feet (sq. ft.) for the existing 119-bed nursing and rehabilitation center located at 1312 Caton Avenue in Brooklyn Community District 14 (CD 14). Additionally, the zoning text amendment to New York City Zoning Resolution (ZR) Appendix F: Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing (MIH) Areas for CD 14 would ensure that, should the property be redeveloped subsequently for residential use, such development will be pursuant to MIH.

On October 25, 2018, Brooklyn Borough President Eric L. Adams held a public hearing on these zoning map and text amendments. There were no speakers on this item.

In response to Borough President Adams' inquiry regarding the incorporation of sustainable features such as blue, green, or white roof coverings, passive house design, solar panels, and/or New York City Department of Environmental Protection (DEP) rain gardens, the representative expressed that the project has so far focused on the facility's bulk and its impact on the site's zoning. The applicant would consider sustainability concerns, including cooling and heating systems.

In response to Borough President Adams' inquiry regarding the Caton Avenue crossing at Rugby Road and whether the applicant would consider committing to maintenance of a painted sidewalk if the New York City Department of Transportation (DOT) determined that such a safety measure is warranted at this intersection, the representative stated that the applicant sees value in improving pedestrian safety for nursing home employees and residents, and would be interested in taking steps toward this goal.

In response to Borough President Adams' inquiry regarding the inclusion and participation of locally-owned business enterprises (LBEs) and minority- and women-owned business enterprises (MWBEs) in the construction process, the representative expressed that the applicant relies on Brooklyn-based firms for the nursing home's construction projects.

In response to Borough President Adams' inquiry as to how the nursing home goes about filling hiring opportunities when they arise, and what steps might be taken in the future to promote locally-based hiring, the representative stated that the nursing home has 125 employees, 80 percent of whom reside in Brooklyn. The proposed expansion is expected to generate additional union-based jobs in housekeeping, recreation, and rehabilitation. Information about these positions would be disseminated through local word of mouth.

**Consideration**

Brooklyn Community Board (CB 14) approved this application on October 15, 2018.

The proposed land use actions would affect a site located at 1312 Caton Avenue, comprising approximately 18,645 square feet (sq. ft.), fronting the northeast corner of the block along Caton Avenue and Rugby Road. The lot contains the Caton Park Rehabilitation and Nursing Center (Center), established in this location in 1966 as the original occupant. The Center occupies four full floors, has a partial fifth story on the west side of the building, and contains 119 beds. The facility employs 125 staff members and provides a range of rehabilitation therapies to chronically ill, elderly, and handicapped residents, with at least 50 clients receiving such services at any given time.



Currently, the Center is facing space constraints that impede its ability to administer optimal care in accordance with Federal and State guidelines. The Center is seeking an enlargement to the nursing home in order to create sufficient space to accommodate residents as well as the equipment and services they require. The proposed expansion would enclose the existing roof deck and add new offices, recreation rooms, and other spaces, totaling approximately 4,830 zoning sq. ft. The number of beds at the Center would remain unchanged.

The Center's lot was initially governed according to a split-lot condition resulting from a R3-1/R6 zoning district boundary line that runs down the center of the block as established by the 1961 Citywide zoning map. The block was rezoned as part of the 2009 Flatbush rezoning, which mapped lower density and contextual zoning districts to preserve the neighborhood's historic character and scale. The zoning districts on the Center's block were amended to R3X and R6A, which diminished the permitted community facility zoning floor area on the Center's lot. The previous R6 zoning, which affected a 3,680 sq. ft. portion of the lot, allowed a maximum 4.8 FAR for community facilities. However, the R6A district reduced the FAR to 3.0, while the R3X district retained the 1.0 permitted community facility FAR for a 14,870 sq. ft. portion of the lot. Therefore, the 2009 rezoning removed approximately 6,625 sq. ft. of community facility floor area rights from the Center's lot, with the resulting R3X and R6A districts allowing only 25,925 sq. ft. of community facility zoning floor area. As developed at approximately 1.8 FAR, the Center is currently a legal non-compliant structure that cannot add zoning floor area as-of-right. Extending the R6A district to the entirety of the lot would increase the allowable floor area to 55,932 sq. ft., which would easily accommodate the proposed enlargement.

In addition to the Center's lot, a very small portion of an adjacent 5,000 sq. ft. lot to the south would fall nominally within the R6A zoning district. That lot is presently occupied by a 2.75 FAR community facility building that functions as a Buddhist temple and would remain as a legal non-compliant building even with the modest addition of allowable zoning floor area.

If the rezoning is approved, the proposed rezoning area would be designated as an MIH area. Under R6A/MIH, the site could potentially yield an approximately eight-story residential building with up to 30 percent floor area providing for affordable housing. However, due to the long-standing and successful operation of the nursing home, and the owner's stated intent to retain the use in perpetuity, residential development is more of a theoretical consideration.

The surrounding context is primarily low-rise residential with apartment buildings within the R6A zoning district and a significant concentration of community facilities east of Argyle Road. These include the nursing home, PS 249 The Caton, and a child care center located across Caton Avenue from Prospect Park. The Center is accessible via the Central Park West Local/Sixth Avenue Express B and the Second Avenue/Broadway Express Q trains at Church Avenue several blocks away, and the B16 bus, which stops at Caton Avenue and Argyle Road.

Borough President Adams supports efforts that facilitate the creation or growth of Brooklyn-based businesses. Among his priorities is to have accessible, affordable, and state-of-the-art medical services available in all neighborhoods of Brooklyn. Borough President Adams recognizes that the health care and health care support sectors are the largest source of employment for Brooklyn residents, and are projected to grow significantly in the coming years.

The proposed rezoning would add a sufficient amount of floor area to the site, allowing the Center to benefit from increased capacity that would enhance its provision of occupational and physical therapy. Borough President Adams supports the continuation and expansion of Caton Avenue at this site and he believes that its adoption provides opportunities to further a range of his policies such as advancing Mayor Bill de Blasio's Vision Zero agenda, incorporating resilient and sustainable energy and stormwater practices, and promoting a high level of LBE/MWBE hiring.

### **Advancing Vision Zero Policies**

Borough President Adams is a supporter of Vision Zero policies, one of which is to extend sidewalks into the roadway as a means of shortening the path where pedestrians cross in front of traffic lanes. These sidewalk extensions, also known as bulbouts or neckdowns, make drivers more aware of pedestrian crossings and encourage them to slow down.

In 2015, Borough President Adams also launched his own initiative, Connecting Residents on Safer Streets (CROSS) Brooklyn. This program supports the creation of bulbouts or curb extensions at dangerous intersections in Brooklyn. During the program's first year, \$1 million was allocated to fund five dangerous intersections in Brooklyn. By installing more curb extensions, seniors will benefit because more of their commutes will be spent on sidewalks, especially near dangerous intersections. At the same time, all users of the roadways will benefit from safer streets.

Caton Avenue is a designated New York City local truck route with multiple intersections lacking traffic controls such as stop signs or traffic lights. The pedestrian crossing of Caton Avenue connects Victorian Flatbush neighborhoods with the Prospect Park Parade Ground athletic fields. Borough President Adams believes that it is appropriate in his consideration of land use matters to advance opportunities to improve pedestrian safety. For this application, he believes that the implementation of protected painted sidewalk extensions per his CROSS Brooklyn initiative warrants consideration at the intersection of Caton Avenue and Rugby Road. Such painted sidewalk extensions would facilitate safer pedestrian crossings to the Parade Ground athletic fields.

Borough President Adams urges DOT to evaluate the appropriateness of installing painted sidewalk extensions as Vision Zero enhancements at the southwest intersection of Caton Avenue and Rugby Road. As such painted roadway modifications traditionally require a maintenance agreement that indemnifies the City from liability, contains a requirement for insurance, and details the responsibilities of the maintenance partner, he believes it would be appropriate to have the Center enter into such a maintenance agreement with DOT as a responsible party.

Therefore, prior to considering the application, the City Council should obtain commitments, in writing, from the Center that clarify its intent to enter into such a maintenance agreement with DOT subject to DOT implementation. Should the site meet DOT criteria for implementation, it should consult with CB 14 and local elected officials before undertaking such improvements.

### **Advancing Resilient and Sustainable Energy and Stormwater Management Policies**

It is Borough President Adams' sustainable energy policy to promote opportunities that utilize blue/green/white roofs, solar panels, and/or wind turbines, as well as passive house construction. He encourages developers to coordinate with the New York City Mayor's Office of Sustainability, the New York State Energy Research and Development Authority (NYSERDA), and/or the New York Power Authority (NYPA) at each project site. Such modifications tend to increase energy efficiency and reduce a development's carbon footprint. The proposed development offers opportunities to explore resiliency and sustainability measures such as incorporating blue/green/white roof finishes, passive house construction principles, and solar panels.

Furthermore, as part of his flood resiliency policy, Borough President Adams also encourages developers to introduce best practices to manage stormwater runoff such as incorporating permeable pavers and/or establishing rain gardens or tree pit enlargements that advance DEP's green infrastructure strategy. According to the "New York City Green Infrastructure 2017 Annual Report," green infrastructure plays a critical role in addressing water quality challenges and provides numerous economic, environmental, and social co-benefits.

Borough President Adams believes that sidewalks with nominal landscaping and/or adjacent roadway surfaces are potential resources that could be transformed through the incorporation of rain gardens, which provide tangible environmental benefits through rainwater collection, improved air quality, and streetscape beautification. Tree plantings can be consolidated with rain gardens as part of a more comprehensive green infrastructure strategy. In addition, blue/green roofs, permeable pavers, and rain gardens would divert stormwater from the City's water pollution control plants.

Borough President Adams believes that the perimeter of sidewalk area fronting the center on both Caton Avenue and Rugby Road provides an opportunity for the construction of a DEP rain garden. It should be noted that a rain garden would require maintenance commitment and attention from the property owner. Maintenance includes cleaning out debris and litter that can clog the inlet/outlet and prevent proper water collection, regular inspection to prevent soil erosion, watering during dry and hot periods, and weeding to keep the plants healthy and uncongested for proper water absorption. Such efforts could help advance DEP green water/stormwater strategies, enhancing the operation of the Owl's Head Wastewater Treatment Plant during wet weather. Such rain gardens have the added benefit of serving as a streetscape improvement.

Borough President Adams believes it is appropriate for the property owner to engage government agencies, such as the Mayor's Office of Sustainability, NYSERDA, and/or NYPA, to give consideration to government grants and programs that might offset costs associated with enhancing the resiliency and sustainability of this development site. One such program is the City's Green Roof Tax Abatement (GRTA), which provides a reduction of City property taxes by \$4.50 per square foot of green roof, up to \$100,000. The DEP Office of Green Infrastructure advises property owners and their design professionals through the GRTA application process. Borough President Adams encourages the developer to reach out to his office for any help in opening dialogue with the aforementioned agencies and further coordination on this matter.

Therefore, prior to considering the application, the City Council should obtain in writing from the Center commitments that clarify its intent to further explore additional resiliency and sustainability measures, and commitment to coordinate with DEP, DOT, and the New York City Department of Parks and Recreation (NYC Parks) regarding the installation of expanded tree pits and installation and maintenance of DEP rain gardens, in consultation with CB 14 and local elected officials.

### **Jobs**

Borough President Adams is concerned that too many Brooklyn residents are currently unemployed or underemployed. It is his policy to promote economic development that creates more employment opportunities. According to the Furman Center's "State of New York City's Housing and Neighborhoods in 2015," double-digit unemployment remains a pervasive reality for several of Brooklyn's neighborhoods, with more than half of the borough's community districts experiencing poverty rates of nearly 25 percent or greater. Prioritizing local hiring would assist in addressing this employment crisis. Additionally, promoting Brooklyn-based businesses including those that qualify as locally-owned business enterprises (LBEs) and minority- and women-owned business enterprises (MWBEs) is central to Borough President Adams' economic development agenda. This site provides opportunities for the developer to retain a Brooklyn-based contractor and subcontractor, especially those who are designated LBEs consistent with Section 6-108.1 of the City's Administrative Code, and MWBEs that meet or exceed standards per Local Law 1 (no less than 20 percent participation).

Borough President Adams believes that prior to considering the application, the City Council should obtain in writing from the Center commitments that clarify its intent to memorialize retention of Brooklyn-based contractors and subcontractors, especially those who are designated LBE consistent with Section 6-108.1 of the City's Administrative Code and MWBE as a means to meet or exceed

standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency.

Borough President Adams recognizes that the Center is a significant source of jobs, including union-based employment in the area, and that the number of permanent jobs is likely to increase as a result of the proposed development. He seeks for such positions to be filled through locally-based hiring, consistent with his policy of increasing job opportunities for Brooklynites.

**Recommendation**

Be it resolved that the Brooklyn borough president, pursuant to Section 201 of the New York City Charter, recommends that the City Planning Commission (CPC) and City Council approve this application with the following conditions:

1. That prior to considering the application, the City Council obtain commitments in writing from the applicant, Caton Park Rehabilitation and Nursing Center that clarify how it would:
  - a. Subject to New York City Department of Transportation (DOT) implementation, commit to maintaining a painted sidewalk extension at the southwest intersection of Caton Avenue and Rugby Road
  - b. Explore additional resiliency and sustainability measures such as incorporating blue/green/white roof treatment, rain gardens, and/or solar panels
  - c. Subject to New York City Department of Environmental Protection (DEP) implementation of rain gardens along the Caton Avenue and/or Rugby Road frontages, commit to maintaining DEP rain gardens
  - d. Subject to New York City Department of Parks and Recreation (NYC Parks) determination, commit to the installation of expanded tree pits
  - e. Retain Brooklyn-based contractors and subcontractors, especially those who are designated local business enterprises (LBEs) consistent with Section 6-108.1 of the City's Administrative code and minority- and women-owned business enterprises (MWBEs) as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency

**Be it further resolved:**

1. That DOT evaluate the need for painted sidewalk extensions as Vision Zero enhancements at the southwest intersection of Caton Avenue and Rugby Road, and prior to proceeding with implementation, coordinate with Brooklyn Community Board 14 (CB 14) and local elected officials, and secure a maintenance agreement with the Caton Park Rehabilitation and Nursing Center
2. That NYC Parks evaluate the appropriateness of installing expanded tree pits at this site
3. That DEP consider the appropriateness of constructing rain gardens, and if feasible, coordinate with the Caton Park Rehabilitation and Nursing Center to determine maintenance obligation should rain gardens be installed along the sidewalk in front of the building